

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4
5 UNITED STATES OF) CR-05-00215-EJD
6 AMERICA,)
7 PLAINTIFF,) DECEMBER 7, 2011
8 V.) **PARTIAL TRANSCRIPT**
9 ERIC AARON LIGHTER,)
10 DEFENDANT.)
-----)

11
12 THE PROCEEDINGS WERE HELD BEFORE
13 THE HONORABLE UNITED STATES DISTRICT
14 JUDGE EDWARD J. DAVILA

15 A P P E A R A N C E S:

16
17 FOR THE PLAINTIFF: U.S. DEPARTMENT OF JUSTICE
18 BY: CHARLES A. O'REILLY
19 KATHERINE WONG
 P.O.BOX 972
 WASHINGTON, D.C. 20044

20
21 FOR THE DEFENDANT: CAREY & CAREY
22 BY: JERRY Y. FONG
 706 COWPER STREET
 PALO ALTO, CALIFORNIA 94301

23 (APPEARANCES CONTINUED ON THE NEXT PAGE.)

24
25 OFFICIAL COURT REPORTER: IRENE RODRIGUEZ, CSR, CRR
 CERTIFICATE NUMBER 8074

1 A P P E A R A N C E S: (CONT'D)

2 ALSO PRESENT:

INTERNAL REVENUE SERVICE
BY: CHARLES TONNA
450 GOLDEN GATE AVENUE
6TH FLOOR
SAN FRANCISCO, CALIFORNIA
94102

DEPARTMENT OF THE TREASURY
BY: WILLIAM LEE
KENNETH BONANO
450 GOLDEN GATE AVENUE
7TH FLOOR, SUITE 7-2506
SAN FRANCISCO, CALIFORNIA
94102

1 INDEX OF PROCEEDINGS

2
3 DEFENDANT'S OPENING STATEMENT P. 4
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 SAN JOSE, CALIFORNIA

DECEMBER 7, 2011

2
3 P R O C E E D I N G S
4

5 (WHEREUPON, COURT CONVENED AND THE
FOLLOWING PROCEEDINGS WERE HELD:)

10:03:25 6 THE COURT: DOES THE DEFENSE HAVE AN
10:03:26 7 OPENING STATEMENT?

10:03:27 8 MR. FONG: YES, YOUR HONOR. MAY IT
10:03:29 9 PLEASE THE COURT. CAN YOUR HONOR SEE.

10:03:29 10 (WHEREUPON, COUNSEL FOR DEFENDANT LIGHTER
10:03:54 11 GAVE THEIR OPENING STATEMENT.)

10:03:54 12 MR. FONG: YOUR HONOR, COURTROOM STAFF,
10:03:56 13 MR. O'REILLY, MS. WONG, MS. BURGESS, SPECIAL AGENT
10:04:01 14 BONANO, AND OTHER MEMBERS OF THE GOVERNMENT'S TEAM,
10:04:03 15 GOOD MORNING.

10:04:04 16 LADIES AND GENTLEMEN, GOOD MORNING.

10:04:05 17 I KNOW WHAT YOU'RE THINKING, WAIT A
10:04:07 18 MINUTE, WE'RE IN SAN JOSE AND THIS GUY IS USING A
10:04:10 19 FLIP CHART. IT'S A DECIDEDLY LOW-TECH WAY TO GO,
10:04:13 20 BUT I THINK IT WILL HELP.

10:04:15 21 YOU PROBABLY HAVE SEEN ENOUGH T.V. SHOWS
10:04:22 22 AND READ ENOUGH LEGAL THRILLERS, WHICH I READ ALL
10:04:26 23 OF THE TIME AND I DON'T KNOW WHY, TO KNOW THAT
10:04:28 24 THERE'S THE CLICHE THAT THE OPENING STATEMENT IS
10:04:30 25 SUPPOSED TO BE A ROADMAP TO THE CASE.

10:04:33 1 AND THAT'S USUALLY TRUE. AND THAT'S A
 10:04:35 2 GOOD METAPHOR, BUT IN THIS PARTICULAR CASE MY
 10:04:43 3 OPENING STATEMENT WILL FOCUS FIRST -- TREAT IT LIKE
 10:04:46 4 A MENU.

10:04:47 5 IN PARTICULAR, ONE PARTICULAR ITEM ON
 10:04:49 6 THIS MENU, AND THIS WILL HELP YOU FOLLOW THE
 10:04:52 7 EVIDENCE, THE ITEM, THE DAILY SPECIAL ON THIS MENU
 10:05:04 8 IS BLT. EVERYBODY'S FAVORITE. IN THIS PARTICULAR
 10:05:14 9 CASE IT'S NOT A SANDWICH. IT IS BEFORE LIGHTER'S
 10:05:28 10 TIME, BEFORE ERIC LIGHTER'S TIME.

10:05:30 11 THE REASON THIS IS SO IMPORTANT ON THE
 10:05:33 12 MENU, IS THAT IT WILL HELP YOU FOCUS ON THE
 10:05:36 13 TIMELINE INVOLVED.

10:05:37 14 BECAUSE THE GOVERNMENT IS RIGHT ABOUT ONE
 10:05:39 15 POINT, AND THAT IS THAT THERE WERE A LOT OF
 10:05:42 16 CONSPIRACIES TO DEFRAUD THE I.R.S., A LOT OF THEM,
 10:05:47 17 ALL OVER THE PLACE.

10:05:48 18 IT'S JUST THAT ALL OF THOSE CONSPIRACIES
 10:05:53 19 HAD TAKEN PLACE BLT. THE N.T.S. PEOPLE -- THE
 10:06:00 20 OTHER THING THAT YOU'LL FIND IS THAT THE EVIDENCE
 10:06:02 21 WILL SHOW IN THIS CASE THAT THERE ARE A LOT OF
 10:06:04 22 DOCTORS INVOLVED. OF THE SIX WITNESSES WHO WERE
 10:06:08 23 INVOLVED WITH MR. LIGHTER, I THINK WE HAVE FOUR
 10:06:13 24 MEDICAL DOCTORS, TWO PROFESSORS AT BERKELEY.

10:06:19 25 NOW, WE HAVE THE BROCKS, WE HAVE

10:06:27 1 BOURDIER, AND WE HAVE GOOTNICK.

10:06:29 2 NOW, THE FRAUD THAT WENT ON HAD TAKEN

10:06:38 3 PLACE BEFORE ANY OF THESE PEOPLE HAD EVER MET

10:06:42 4 MR. LIGHTER.

10:06:42 5 THE N.T.S. SYSTEM, THE EVIDENCE WILL

10:06:46 6 SHOW, WASN'T JUST SOME KIND OF A TAX PLANNING

10:06:49 7 DEVICE. IT WAS A BLATANT, BLATANT SCAM THAT ANY

10:06:58 8 FIVE YEAR OLD SHOULD HAVE SEEN THROUGH IT.

10:07:00 9 WHAT IT DID WAS IT SET UP -- IT TAUGHT

10:07:03 10 PEOPLE WHO WERE PROFESSIONALS, LIKE DR. BROCK,

10:07:07 11 PROFESSOR BOURDIER, AND PROFESSOR GOOTNICK, IT

10:07:11 12 TAUGHT THEM TO SET UP -- BECAUSE ALL OF THESE

10:07:13 13 PROFESSIONALS, OF COURSE, ARE KIND OF

10:07:15 14 SELF-EMPLOYED -- IT TOLD THEM, LOOK, YOU DON'T HAVE

10:07:18 15 TO RECORD YOUR INCOME. THIS IS N.T.S. TALKING.

10:07:21 16 THIS IS SAM FUNG THROUGH N.T.S. TALKING.

10:07:25 17 YOU DON'T HAVE TO SET UP, YOU DON'T HAVE

10:07:27 18 TO PAY INCOME TAXES BECAUSE HERE'S WHAT WE DO, WE,

10:07:39 19 THE EVIDENCE WILL SHOW THAT WHAT N.T.S. AND SAM

10:07:42 20 FUNG, NOT MR. LIGHTER, THIS ALL HAPPENED WELL

10:07:45 21 BEFORE ANYBODY MET MR. LIGHTER.

10:07:49 22 THEY WILL SAY SET UP YOUR MEDICAL

10:07:53 23 PRACTICE, SET UP A BUSINESS TRUST. SET UP A

10:08:10 24 BUSINESS TRUST. AND IF YOU'RE IN THE MEDICAL

10:08:14 25 PRACTICE, PUT YOUR MEDICAL PRACTICE IN THE BUSINESS

10:08:16 1 TRUST OR IF YOU'RE A PHOTOGRAPHER, PUT YOUR
10:08:18 2 PHOTOGRAPHER BUSINESS IN THE BUSINESS TRUST.
10:08:21 3 THEN SET UP A FAMILY TRUST.
10:08:24 4 AND FINALLY, SET UP A CHARITABLE TRUST.
10:08:37 5 OKAY. NOW, I'M A MEDICAL DOCTOR, I SET
10:08:39 6 UP A BUSINESS TRUST. I RUN MY MEDICAL PRACTICE
10:08:42 7 THROUGH IT AND THEN I GET A NOMINAL SALARY FOR MY
10:08:46 8 EFFORTS AS A PRACTICING PHYSICIAN.
10:08:49 9 I TAKE NORMAL -- UNDER THE N.T.S. SYSTEM,
10:08:56 10 I TAKE NORMAL BUSINESS DEDUCTIONS AND BEING
10:08:59 11 CREATIVE DEPENDING ON WHAT HAPPENS. BUT THAT'S NOT
10:09:02 12 THE PROBLEM.
10:09:03 13 THEN WHATEVER NET INCOME THAT I HAVE FROM
10:09:06 14 A MEDICAL PRACTICE, I TRANSFER OVER, I PAY OVER TO
10:09:09 15 THE FAMILY TRUST. AND THIS IS WHERE THE FRAUD
10:09:12 16 BEGINS.
10:09:13 17 THE FAMILY TRUST WOULD THEN DEDUCT EVERY
10:09:18 18 SINGLE LIVING EXPENSE, EVERY SINGLE LIVING EXPENSE
10:09:22 19 THAT THE TAXPAYER HAD.
10:09:26 20 AND WE'RE NOT TALKING ABOUT AN EXTRA CAR,
10:09:29 21 TRIP TO THE LIBRARY OR WE'RE NOT TALKING ABOUT
10:09:32 22 EXTRA MOVIE TICKETS OR EVEN A COUPLE OF GROCERY
10:09:36 23 BILLS.
10:09:36 24 WE'RE TALKING ABOUT IN THE CASE OF
10:09:39 25 DR. BROCK, DR. GOOTNICK, AND PROFESSOR BOURDIER,

10:09:42 1 WE'RE TALKING ABOUT HUNDREDS OF THOUSANDS OF
 10:09:44 2 DOLLARS OF THINGS LIKE, FOR EXAMPLE, DR. GOOTNICK'S
 10:09:49 3 FAMILY TOOK AS A FAMILY TRUST DEDUCTION THE FEES
 10:09:57 4 FOR BOARDING YOUR HORSES FOR GROOMING THEIR DOG,
 10:10:04 5 AND THEIR SON'S DUKE UNIVERSITY TUITION, AND
 10:10:12 6 DR. IRWIN GOOTNICK'S MOTHER'S LIVING EXPENSES IN A
 10:10:16 7 LUXURY RETIREMENT HOME. ALL OF THESE THINGS THAT
 10:10:19 8 YOU AND I AND EVERYBODY ELSE WOULD HAVE TO PAY FOR
 10:10:22 9 WITHOUT THE TAX DOLLARS.

10:10:23 10 N.T.S., THROUGH THE N.T.S. SYSTEM, THESE
 10:10:30 11 INDIVIDUALS, DR. GOOTNICK, DR. BROCK, AND PROFESSOR
 10:10:35 12 BOURDIER TOOK HUNDREDS OF THOUSANDS OF DOLLARS OF
 10:10:38 13 DEDUCTIONS. SO THAT IS IN THE FAMILY TRUST. SO
 10:10:40 14 THE FAMILY TRUST'S INCOME WOULD ZERO OUT PRETTY
 10:10:44 15 EFFECTIVELY.

10:10:45 16 THEN WHATEVER MONEY IS LEFT, THEY WOULD
 10:10:49 17 SEND THE MONEY OVER TO THE CHARITABLE TRUST, EXCEPT
 10:10:52 18 THIS IS NOT CHARITABLE IN THE SENSE THAT ANY COMMON
 10:10:56 19 SENSE PERSON WOULD SEE IT.

10:10:57 20 THIS IS SIMPLY A HOLDING COMPANY FOR, FOR
 10:11:08 21 EXAMPLE, IN DR. GOOTNICK'S CASE IT WAS HIS STOCK
 10:11:11 22 PORTFOLIO, IT WAS HIS PLAN. THERE WAS NO CHARITY.
 10:11:16 23 THAT'S THE N.T.S. SYSTEM.

10:11:18 24 NOW, WHAT DOES THAT HAVE TO DO WITH
 10:11:20 25 MR. LIGHTER?

10:11:25 1 NOW, THESE INDIVIDUALS DRS. BROCK,

10:11:30 2 HANEY -- EXCUSE ME. DR. HANEY, DR. GOOTNICK, AND

10:11:40 3 PROFESSOR BOURDIER AND HIS WIFE, THEY FILED YEARS

10:11:43 4 OF INCOME TAX RETURNS USING THIS BOGUS N.T.S.

10:11:49 5 SYSTEM, AND THAT'S ALL BLT. THAT WAS DONE BEFORE

10:11:54 6 THEY EVER MET MR. LIGHTER. MR. LIGHTER HAD

10:11:58 7 ABSOLUTELY NOTHING TO DO WITH THAT.

10:12:01 8 AND, IN FACT, POST-BLT. WHAT HAPPENS

10:12:05 9 WHEN MR. LIGHTER COMES ONTO THE SCENE? THE FIRST

10:12:08 10 THING HE DID WAS HE TOLD EVERYBODY, AND THE

10:12:10 11 EVIDENCE WILL SHOW, THAT N.T.S., WHAT YOU HAVE BEEN

10:12:13 12 DOING IS ILLEGAL AND N.T.S. IS BAD. THAT'S WHAT

10:12:27 13 MR. LIGHTER TOLD EVERYBODY. I DO NOT BELIEVE THE

10:12:30 14 EVIDENCE WILL BE IN DISPUTE OVER THAT POINT.

10:12:33 15 SO, YES, THERE WAS A LOT OF TAX FRAUD

10:12:36 16 GOING ON, BUT IT'S EVERYTHING THAT HAPPENED BEFORE

10:12:38 17 MR. LIGHTER'S TIME AND IT DID NOT INVOLVE

10:12:41 18 MR. LIGHTER.

10:12:42 19 IN FACT, MR. LIGHTER CAME IN AND SAID,

10:12:45 20 HEY, WHAT YOU GUYS DID, IT'S ILLEGAL. AND WHAT YOU

10:12:49 21 HAVE TO DO, WHAT YOU HAVE TO TRY TO DO IS RESOLVE

10:12:53 22 YOUR PROBLEMS WITH THE I.R.S.

10:12:55 23 AND BEFORE MR. LIGHTER CAME INTO THIS,

10:12:58 24 MR. FUNG, THE CODEFENDANT WHO HAS NOW PLED GUILTY

10:13:02 25 WHO IS NOW COOPERATING WITH THE GOVERNMENT,

10:13:04 1 MR. FUNG WAS STARTING TO GET AUDITED FOR HIS
 10:13:08 2 PERSONAL TAX RETURNS. HE GOT SCARED. HE WAS
 10:13:12 3 LOOKING FOR SOMEBODY TO HIM HELP.
 10:13:14 4 HE HEARD ABOUT MR. LIGHTER. AND
 10:13:17 5 MR. LIGHTER HAD A REPUTATION AS A REAL ESTATE
 10:13:25 6 DEVELOPER AND INVESTOR WHO IS NOT AFRAID OF TAKING
 10:13:28 7 ON THE I.R.S. YES, MR. LIGHTER'S METHODS WERE
 10:13:31 8 VERY, VERY UNCONVENTIONAL. HOWEVER, MR. LIGHTER
 10:13:34 9 MADE CLEAR TO MR. FUNG, WHAT YOU NEED TO DO IS TO
 10:13:37 10 DO CERTAIN THINGS. ONE OF WHICH WAS TO SEND THIS
 10:13:44 11 OMNIBUS RETURN TO THE I.R.S.
 10:13:47 12 AND THIS OMNIBUS RETURN IS NOT A
 10:13:50 13 TRADITIONAL TAX RETURN. IT'S MORE REALLY LIKE AN
 10:13:53 14 ESSAY, A STATEMENT. BUT WHAT IS CRITICAL ABOUT THE
 10:13:58 15 OMNIBUS TAX RETURN, REGARDLESS OF THE CONVENTIONAL
 10:14:04 16 FORM, IS THAT THE OMNIBUS RETURN TOLD THE I.R.S.
 10:14:08 17 THAT THE ONE SENT IN BY SAM FUNG, WITH
 10:14:11 18 MR. LIGHTER'S HELP.
 10:14:12 19 MR. FUNG SAID TO THE I.R.S., I'M
 10:14:17 20 CONFESSING TO A FELONY OR FELONIES. I REPUDIATE
 10:14:20 21 N.T.S. I KNOW WHAT I DID WAS WRONG AND I WANT TO
 10:14:23 22 TRY TO MAKE IT RIGHT.
 10:14:24 23 AND TO SHOW THAT THERE'S PROOF IN THE
 10:14:28 24 PUDDING, IS THAT MR. FUNG ALSO SENT IN WITH
 10:14:33 25 MR. LIGHTER'S HELP AMENDED TAX RETURNS.

10:14:37 1 WELL, THESE AMENDED TAX RETURNS, AS
 10:14:39 2 OPPOSED TO WHAT I CALL THE MANIFESTO, THE OMNIBUS
 10:14:46 3 RETURN, IT'S THE AMENDED TAX RETURNS THAT SAM FUNG
 10:14:52 4 FILED WITH MR. LIGHTER'S HELP WERE TRADITIONAL TAX
 10:14:55 5 RETURNS WHERE MR. FUNG TOOK REGULAR BUSINESS
 10:14:58 6 REDUCTIONS. NOTHING FOR THE HORSES ON HIS
 10:15:00 7 PROPERTY, NOTHING FOR HIS SON'S COLLEGE TUITION,
 10:15:03 8 NOTHING ABOUT HIS MOTHER'S LUXURY RETIREMENT HOME,
 10:15:10 9 NOTHING ABOUT VACATIONS IN HAWAII AT TRUSTEE
 10:15:15 10 MEETINGS OR TRUSTEE EXPENSES OR PAYING HIS CHILDREN
 10:15:18 11 THE TENS OF THOUSANDS OF DOLLARS AS TRUSTEE
 10:15:21 12 EXPENSES.

10:15:29 13 SO BEFORE MR. LIGHTER CAME IN, MR. FUNG,
 10:15:33 14 AND HIS CLIENT, MR. BROCK, DR. BROCK, DR. BOURDIER,
 10:15:38 15 AND DR. GOOTNICK.

10:15:40 16 I THINK I CAN GET AWAY WITH CALLING
 10:15:45 17 DR. BOURDIER PROFESSOR BECAUSE HE HAS A PH.D. SO
 10:15:48 18 PROFESSOR BOURDIER AND MR. GOOTNICK WERE CHEATING
 10:15:54 19 THE I.R.S. BY FILING THESE BOGUS TAX RETURNS BY
 10:15:58 20 HAVING THESE EXPENSIVE, LAVISH TAX REDUCTIONS THAT
 10:16:04 21 YOU AND I WOULD NEVER BE ABLE TO GET AWAY WITH.

10:16:06 22 AND ALL OF THAT STOPPED WHEN MR. LIGHTER
 10:16:08 23 CAME ONTO THE SCENE AND THE PROOF IS THE FACT THAT
 10:16:12 24 MR. LIGHTER STARTED WORKING WITH MR. FUNG AND WHAT
 10:16:14 25 HE, MR. FUNG, DID WAS SEND IN THE OMNIBUS RETURN

10:16:18 1 SAYING THAT, LOOK, I'M CONFESSING, I'M CONFESSING
10:16:21 2 THAT I HAVE COMMITTED FELONIES.

10:16:23 3 AND THAT I WANT TO TRY TO MAKE THINGS
10:16:31 4 RIGHT AND MR. FUNG FOLLOWED THROUGH BY FILING TAX
10:16:34 5 RETURNS WHICH WERE YOUR TYPICAL RETURNS WITH
10:16:36 6 REGULAR DEDUCTIONS AND WHATNOT.

10:16:40 7 NOTHING ABOUT THE BLATANTLY ILLEGAL
10:16:43 8 PERSONAL EXPENSE DEDUCTIONS.

10:16:45 9 NOW, THE EVIDENCE WILL SHOW THAT THESE
10:16:51 10 INDIVIDUALS WHO, ACCORDING TO THE GOVERNMENT, HAVE
10:16:57 11 BEEN DUPED BY MR. LIGHTER, THEY WERE EACH A VERY
10:17:04 12 SOPHISTICATED BUSINESS PERSON.

10:17:06 13 IN ADDITION TO THE FACT THAT THEY ARE --
10:17:08 14 THEY WERE VERY, VERY HIGHLY EDUCATED AND IN A
10:17:12 15 MEDICAL PROFESSION, IN ACADEMICS IN THE UNIVERSITY
10:17:17 16 OF BERKELEY, THE UNIVERSITY OF CALIFORNIA BERKELEY.

10:17:19 17 THEY ALSO EACH HAD A LOT OF INVESTMENT
10:17:26 18 EXPERIENCES. THEY HAD QUITE A PORTFOLIO. THEY HAD
10:17:31 19 TO WORK WITH ATTORNEYS AND ACCOUNTANTS AND WHAT
10:17:35 20 HAVE YOU. THEY KNEW WHAT THEY WERE DOING.

10:17:37 21 AND THEY KNEW, LET THERE BE NO MISTAKE,
10:17:40 22 THE EVIDENCE WILL SHOW THAT THESE INDIVIDUALS WERE
10:17:43 23 CONCERNED NOT BECAUSE THEY HAD AN I.R.S. PROBLEM,
10:17:48 24 AGAIN, THE I.R.S. PROBLEM HAD ARisen BLT. THESE
10:17:53 25 PEOPLE WERE CONCERNED NOT BECAUSE THEY HAD AN

10:17:55 1 I.R.S. PROBLEM.

10:17:56 2 WHAT THEY HAD WAS THE REALITY THAT THEY

10:18:00 3 AND MR. FUNG HAD COMMITTED TAX FRAUD BUT BLT,

10:18:04 4 BEFORE MR. LIGHTER'S TIME, AND THE I.R.S. WAS

10:18:07 5 CLOSING DOWN ON THEM.

10:18:16 6 NOW, THE EVIDENCE WILL ALSO SHOW THAT FOR

10:18:19 7 DR. GOOTNICK AND FOR EACH ONE OF THESE THREE

10:18:23 8 "ALLEGED VICTIMS."

10:18:29 9 WHAT MR. LIGHTER DID WAS TO ENTER INTO

10:18:31 10 BUSINESS TRANSACTIONS WITH THEM. THERE WASN'T

10:18:33 11 THIS, HEY, WHY DON'T YOU GIVE ME EVERYTHING THAT

10:18:36 12 YOU OWN AND THEN WE'LL JUST KIND OF CALL IT A

10:18:41 13 SECRET. NO. THERE WERE CONTRACTS THAT WERE SIGNED

10:18:44 14 IN EACH OF THESE -- FOR EACH OF THESE INDIVIDUALS.

10:18:47 15 SO, FOR EXAMPLE, WITH DR. GOOTNICK, THERE

10:18:55 16 WAS A CONTRACT, A WRITTEN CONTRACT AND YOU'LL SEE

10:18:58 17 IT AS PART OF THE EXHIBIT THAT WILL COME INTO

10:19:00 18 EVIDENCE.

10:19:00 19 THERE'S A CONTRACT BETWEEN MR. LIGHTER

10:19:02 20 AND DR. GOOTNICK, OR ACTUALLY BOTH IRWIN AND SUSAN

10:19:09 21 GOOTNICK, IN WHICH THEY SIMPLY EXCHANGED

10:19:20 22 10 PERCENT, 10 PERCENT STOCK EXCHANGE.

10:19:28 23 IF I MAKE A SPELLING ERROR, BECAUSE I

10:19:31 24 DON'T HAVE SPELL CHECK WITH MY HANDS, JUST BEAR

10:19:34 25 WITH ME.

10:19:35 1 10 PERCENT STOCK CHANGE WITH

10:19:38 2 MR. LIGHTER'S COMPANY, HCHC, AND THE GOOTNICK

10:19:42 3 CHARITABLE TRUST, INC.

10:19:44 4 IT WAS A SIMPLE STRAIGHT AHEAD 10 PERCENT

10:19:48 5 STOCK EXCHANGE. MR. LIGHTER WAS LOOKING FOR

10:19:50 6 INVESTORS AND PARTNERS IN HIS REAL ESTATE

10:19:55 7 DEVELOPMENT JOB.

10:19:55 8 BUT AS PART OF THAT, HE WANTED TO HAVE

10:19:58 9 PARTNERS WHO WERE CLEAR WITH THE I.R.S.

10:20:02 10 HE DID NOT WANT PARTNERS WHO HAD I.R.S.

10:20:05 11 PROBLEMS, ESPECIALLY WITH THE PREVIOUS FRAUD THAT

10:20:07 12 HAD TAKEN PLACE BEFORE HE EVER MET THEM, OKAY?

10:20:17 13 NOW, THIS TOOK PLACE IN APRIL OF 2003.

10:20:20 14 THEN IN OCTOBER OF 2003 -- I'M SORRY.

10:20:23 15 OCTOBER OF 2004. PARDON ME.

10:20:27 16 THEN SIX MONTHS LATER THERE WAS A BILL OF

10:20:31 17 SALE AND A LEGAL DOCUMENT A BILL OF SALE.

10:20:36 18 AND IN THAT BILL OF SALE DR. GOOTNICK

10:20:44 19 SOLD GOOTNICK CHARITABLE TRUST, INC., TO

10:20:49 20 MR. LIGHTER. HE DIDN'T GIVE AWAY THE FARM. HE

10:20:51 21 DIDN'T SAY HAPPY BIRTHDAY, MR. LIGHTER, YOU'RE NOW

10:20:55 22 THE PROUD OWNER OF A MEDICAL BUILDING IN SAN

10:20:59 23 FRANCISCO.

10:20:59 24 THE CONTRACT IS A WRITTEN CONTRACT THAT

10:21:02 25 CALLED FOR A 2.85 MILLION -- IT MIGHT BE 2.8. IT

10:21:14 1 WAS A STRAIGHT BILL OF SALE OF GCTI BILL OF SALE
 10:21:20 2 FOR \$2.85 MILLION PROMISSORY NOTE.

10:21:24 3 BUT THERE WAS ALSO AN ADDITIONAL KICKER
 10:21:28 4 THAT WOULD EXPLAIN DR. GOOTNICK'S MOTIVATION FOR
 10:21:32 5 ENTERING INTO THAT TRANSACTION IN ADDITION TO THE
 10:21:35 6 2.85 PROMISSORY NOTE THAT HE WAS GETTING BACK.

10:21:38 7 BY THE WAY, THE EVIDENCE WILL SHOW THAT
 10:21:41 8 THIS IS A DOCUMENT THAT THE I.R.S. HAD. THERE WAS
 10:21:43 9 NO HIDING OF THE BALL.

10:21:50 10 NOW, THERE'S A CRITICAL PROVISION HERE BY
 10:21:53 11 DR. GOOTNICK SELLING THE ASSETS OR HIS OWNERSHIP OF
 10:21:59 12 GCTI, GOOTNICK CHARITABLE TRUST, INC., THE BUYER,
 10:22:02 13 MR. LIGHTER'S COMPANY WOULD ASSUME ALL TAX
 10:22:07 14 LIABILITY OF GCTI.

10:22:10 15 AND THAT'S WHAT -- THAT WAS ONE OF THE
 10:22:14 16 MAJOR REASONS WHY DR. GOOTNICK WANTED THAT DEAL
 10:22:17 17 BECAUSE HE DID NOT, HE DID NOT WANT TO FACE THE
 10:22:20 18 MUSIC IN TERMS OF THE FRAUD THAT HE AND SAM FUNG
 10:22:24 19 HAD COMMITTED BY FILING BOGUS, FALSE TAX RETURNS
 10:22:28 20 USING THE N.T.S. TRUST SYSTEM.

10:22:31 21 HE DID NOT WANT TO FACE THE CONSEQUENCES
 10:22:34 22 OF THAT SO, HEY, CUT A DEAL AND LET MR. LIGHTER
 10:22:38 23 TAKE OVER THE TAX LIABILITY.

10:22:40 24 AGAIN, THIS IS ALL IN WRITING. THIS IS
 10:22:42 25 NOT A BUNCH OF SECRET CODES OR WHAT HAVE YOU. LET

10:23:15 1 ME CHECK HERE.

10:23:16 2 NOW, WHAT IS INTERESTING IS THAT IN THE
10:23:18 3 BILL OF SALE THE KEY ASSET -- AND CONTRARY TO WHAT
10:23:24 4 I HEARD IN THE GOVERNMENT'S OPENING STATEMENT, I
10:23:26 5 BELIEVE THE EVIDENCE IS SLIGHTLY DIFFERENT FROM
10:23:28 6 WHAT THE GOVERNMENT REPRESENTED.

10:23:29 7 I BELIEVE THAT THE EVIDENCE WILL SHOW
10:23:32 8 THAT THE GOOTNICKS' FAMILY HOME WAS NEVER PART OF
10:23:37 9 THE DEAL.

10:23:38 10 THE KEY PART OF THE BILL OF SALE INVOLVED
10:23:43 11 A MEDICAL BUILDING IN SAN FRANCISCO THAT WAS
10:23:53 12 SUPPOSED TO BE WORTH \$1.5 MILLION, AND IT WAS
10:23:56 13 SUPPOSED TO BE FREE AND CLEAR.

10:23:57 14 AND TAX LIABILITY THEN THERE WERE ALSO
10:23:59 15 ABOUT I WANT TO SAY ABOUT \$500,000 OF LIQUID
10:24:06 16 ASSETS.

10:24:15 17 SO THAT'S WHAT MR. LIGHTER WAS BUYING FOR
10:24:17 18 HIS \$2.8 MILLION PROMISSORY NOTES AND HIS AGREEMENT
10:24:22 19 IN WRITING TO ASSUME THE TAX LIABILITIES FOR THE --
10:24:25 20 FOR, IN FACT, ALL OF THE TRUSTS THAT DR. GOOTNICK
10:24:28 21 HAD SET UP. HE WAS GETTING THE MEDICAL BUILDING
10:24:33 22 SUPPOSEDLY FREE AND CLEAR AND THE STOCK ASSETS.

10:24:41 23 THE WIRE TRANSFER, THERE WAS A LOT OF
10:24:44 24 WIRE TRANSFERS INVOLVED AND DR. GOOTNICK MADE A LOT
10:24:47 25 OF WIRE TRANSFERS, AND I WOULD SAY IF MY MATH IS

10:24:50 1 CORRECT \$450,000 TO \$500,000 WORTH OF CASH WIRED
 10:24:56 2 OVER TO MR. LIGHTER. YES, THAT DID HAPPEN. BUT
 10:24:59 3 THAT WAS BECAUSE HE HAD A CONTRACT TO DO SO. IT
 10:25:02 4 WAS NOT THIS NEFARIOUS PLAN TO HIDE ASSETS OR HOW
 10:25:10 5 COULD A MEDICAL DOCTOR WITH SOPHISTICATED
 10:25:13 6 INVESTMENT BUSINESS SKILLS HAVE JUST GIVEN AWAY
 10:25:17 7 \$500,000 TO SOMEBODY JUST BECAUSE, HEY, HE TOLD ME
 10:25:20 8 TO?
 10:25:21 9 IT WAS A CONTRACT.
 10:25:24 10 NOW, THE EVIDENCE WILL SHOW THAT THERE
 10:25:27 11 WAS A LITTLE BIT OF A TWIST.
 10:25:29 12 THIS BILL OF SALE HAD OCCURRED, HAD BEEN
 10:25:33 13 SIGNED IN OCTOBER AND THIS STOCK EXCHANGE HAD TAKEN
 10:25:37 14 PLACE IN APRIL.
 10:25:43 15 WELL, UNBEKNOWNST TO MR. LIGHTER, MR. --
 10:25:47 16 DR. GOOTNICK HAD PLACED A \$1.3 MILLION RECORDED
 10:25:53 17 MORTGAGE ON THE MEDICAL BUILDING IN FAVOR OF A
 10:25:57 18 COMPANY THAT WAS NOT PART OF THIS DEAL.
 10:26:08 19 SO THAT MR. LIGHTER GOT, INSTEAD OF
 10:26:11 20 THINKING THAT HE HAD A \$1.5 MILLION MEDICAL
 10:26:13 21 BUILDING FREE AND CLEAR, HE ACTUALLY GOT A MEDICAL
 10:26:16 22 BUILDING THAT WAS ALMOST 80 TO 90 PERCENT
 10:26:19 23 ENCUMBERED. OKAY. SO, YES THERE ARE FRAUDS IN
 10:26:25 24 THIS CASE, BUT MR. LIGHTER IS NOT RESPONSIBLE FOR
 10:26:28 25 THEM.

10:26:28 1 AND THE SAME KIND OF SCENARIO HAPPENED
 10:26:32 2 WITH DR. BROCK AND PROFESSOR BOURDIER. THERE WAS A
 10:26:41 3 STOCK EXCHANGE BETWEEN -- FOR PROFESSOR BOURDIER
 10:26:50 4 THERE WAS AN AGREEMENT TO EXCHANGE 10 PERCENT OF
 10:26:55 5 HCHC STOCK, WHICH IS MR. LIGHTER'S COMPANY, FOR
 10:26:58 6 10 PERCENT OF THE HEART CORPORATION, OR THE HEART
 10:27:12 7 MIND CORPORATION, WHICH THIS IS MR. LIGHTER'S AND
 10:27:16 8 THIS IS PROFESSOR BOURDIER'S COMPANY. THERE'S A
 10:27:20 9 10 PERCENT STOCK EXCHANGE SIMILAR TO THE ONE THAT
 10:27:22 10 MR. LIGHTER HAD ENTERED INTO WITH DR. GOOTNICK.
 10:27:25 11 AND THAT'S PRETTY MUCH WHAT HAPPENED
 10:27:28 12 BETWEEN -- IN TERMS OF THE BUSINESS TRANSACTION
 10:27:31 13 BETWEEN PROFESSOR BOURDIER AND MR. LIGHTER.
 10:27:34 14 EXCEPT -- AND THIS TOOK PLACE IN
 10:27:46 15 OCTOBER 2004, I BELIEVE. EXCEPT A YEAR LATER --
 10:27:49 16 I'M SORRY, OCTOBER OF 2003.
 10:27:51 17 BUT THE IMPORTANT POINT IS THAT A YEAR
 10:27:53 18 LATER, I BELIEVE IT WAS ON DECEMBER 22ND, 2004,
 10:28:04 19 PROFESSOR BOURDIER SENT A LETTER TO MR. LIGHTER
 10:28:07 20 ANNOUNCING, AND WITHOUT ANY NOTICE, THAT, HEY, AS
 10:28:13 21 THE 90 PERCENT HOLDER OF THE HEART MIND CORPORATION
 10:28:18 22 I, JEAN-PAUL BOURDIER, I DISSOLVED THE COMPANY A
 10:28:23 23 COUPLE MONTHS AGO AND THAT, OF COURSE, 10 PERCENT
 10:28:29 24 OF THE STOCK NOW WAS HELD BY MR. LIGHTER'S COMPANY.
 10:28:35 25 SO WHEN THE COMPANY WAS DISSOLVED, THERE

10:28:40 1 SHOULD HAVE BEEN SOME ASSETS OR SET UP A
 10:28:44 2 LIQUIDATION PROCESS THAT MR. LIGHTER AS 10 PERCENT
 10:28:47 3 OWNER OF HEART MIND CORPORATION SHOULD HAVE
 10:28:49 4 RECEIVED SOMETHING.

10:28:55 5 BUT PROFESSOR BOURDIER IN HIS LETTER
 10:28:58 6 SAID, WELL, THE 10 PERCENT STOCK OF HCHC THAT MY
 10:29:05 7 COMPANY HEART MIND CORPORATION IS HOLDING, IT'S
 10:29:11 8 EQUAL OF VALUE TO THE 10 PERCENT STOCK THAT YOU,
 10:29:13 9 MR. LIGHTER, ARE HOLDING IN HEART MIND CORPORATION.
 10:29:18 10 SO EVEN STEVEN. A WASH. THEREFORE, YOU GET
 10:29:23 11 NOTHING.

10:29:23 12 BUT THAT'S EVIDENCE THAT A YEAR LATER
 10:29:29 13 PROFESSOR BOURDIER FELT THAT HIS COMPANY AND
 10:29:34 14 MR. LIGHTER'S COMPANY WERE EQUAL IN VALUE. HE
 10:29:39 15 CERTAINLY MADE THAT REPRESENTATION IN WRITING.

10:29:43 16 NOW, PROFESSOR BOURDIER ALSO WAS WORRIED
 10:29:46 17 ABOUT THE TAX FRAUD THAT HE HAD COMMITTED ALONG
 10:29:51 18 WITH SAM FUNG BEFORE MR. LIGHTER EVER CAME INTO THE
 10:29:55 19 SCENE.

10:29:56 20 BECAUSE YOU WILL HEAR WHEN MR. BOURDIER
 10:29:59 21 TESTIFIES IN THIS CASE THAT WHEN THE GOVERNMENT
 10:30:05 22 ANNOUNCED THAT IT WOULD CALL MR. BOURDIER AS A
 10:30:08 23 WITNESS IN THIS CASE, MR. BOURDIER TOLD THE
 10:30:13 24 GOVERNMENT I'M NOT TESTIFYING UNLESS I GET
 10:30:16 25 IMMUNITY. I WANT IMMUNITY. THE GOVERNMENT GAVE

10:30:18 1 THEM IMMUNITY.

10:30:20 2 SO YOU'LL BE HEARING THAT MR. BOURDIER IS

10:30:22 3 HERE UNDER GOVERNMENT IMMUNITY SO HE CAN TESTIFY AS

10:30:28 4 TO THE FRAUD THAT HE HAD COMMITTED, AND THE

10:30:30 5 EVIDENCE WILL SHOW THAT THE FRAUD THAT HE WAS

10:30:33 6 AFRAID OF, FOR WHICH HE ASKED FOR IMMUNITY, HAD

10:30:36 7 OCCURRED, HAD TAKEN PLACE WITHOUT MR. LIGHTER'S

10:30:41 8 PARTICIPATION. IN FACT, ALL OF THOSE THINGS HAD

10:30:43 9 TAKEN PLACE BEFORE MR. LIGHTER EVER MET PROFESSOR

10:30:47 10 BOURDIER.

10:30:50 11 ONE FINAL POINT ABOUT PROFESSOR BOURDIER

10:30:54 12 WILL COME OUT DURING THE TRIAL AND THAT WILL BE

10:30:57 13 INTERESTING IS THAT THERE ARE SOME DOCUMENTS, A

10:31:00 14 PROMISSORY NOTE AND A MORTGAGE THAT WAS KIND OF

10:31:04 15 SUPPOSED TO BE KIND OF THIS EXCHANGE OF STOCK.

10:31:12 16 EXCEPT THESE DOCUMENTS, THE PROMISSORY NOTE AND THE

10:31:16 17 MORTGAGE, THEY BOTH BORE PROFESSOR BOURDIER'S

10:31:21 18 SIGNATURE AND MR. LIGHTER'S SIGNATURE.

10:31:23 19 EXCEPT THE EVIDENCE WILL SHOW THAT

10:31:25 20 MR. LIGHTER NEVER SIGNED HIS NAME ONTO THOSE TWO

10:31:32 21 DOCUMENTS, AND THERE ARE OTHER DOCUMENTS AS WELL.

10:31:34 22 SO MR. BOURDIER FINALLY AFTER THE

10:31:41 23 GOVERNMENT CONFRONTED HIM WITH THAT, BECAUSE THE

10:31:43 24 DEFENSE HAD ALERTED THE GOVERNMENT THAT MR. LIGHTER

10:31:52 25 HAD NOT, HAD NOT SIGNED THOSE DOCUMENTS, PROFESSOR

10:31:58 1 BOURDIER DRAGGED HIM BY THE SHIRT --

10:32:02 2 MS. WONG: OBJECTION. ARGUMENT.

10:32:04 3 THE COURT: COUNSEL, THIS IS OPENING

10:32:05 4 STATEMENT. IT'S NOT EVIDENCE, LADIES AND

10:32:06 5 GENTLEMEN.

10:32:06 6 COUNSEL, ARE YOU INDICATING WHAT YOU

10:32:08 7 BELIEVE THE EVIDENCE WILL SHOW?

10:32:09 8 MR. FONG: THAT'S WHAT I WAS DOING, YOUR

10:32:12 9 HONOR.

10:32:12 10 I BELIEVE THAT THE EVIDENCE WILL SHOW

10:32:14 11 THAT NOT ONLY DID PROFESSOR BOURDIER FORGE

10:32:20 12 MR. LIGHTER'S SIGNATURE ON TWO IMPORTANT DOCUMENTS,

10:32:26 13 DOCUMENTS THAT THE GOVERNMENT WILL BE USING AS THE

10:32:28 14 BASIS TO PROSECUTE MR. LIGHTER.

10:32:30 15 THE EVIDENCE WILL SHOW NOT ONLY DID

10:32:35 16 PROFESSOR BOURDIER FORGE MR. LIGHTER'S SIGNATURE ON

10:32:37 17 THOSE TWO DOCUMENTS, AND OTHERS, BUT THAT HE WOULD

10:32:40 18 NOT COME CLEAN EVEN AFTER HE HAD BEEN GIVEN

10:32:44 19 IMMUNITY.

10:32:45 20 THAT'S WHAT THE EVIDENCE WILL SHOW, THAT

10:32:47 21 HE WOULD NOT COME CLEAN UNTIL HE WAS CONFRONTED

10:32:50 22 WITH THE FACT THAT THE GOVERNMENT -- THAT

10:32:53 23 MR. LIGHTER KNEW THAT THOSE DOCUMENTS WERE FORGED.

10:32:58 24 OKAY.

10:32:58 25 NOW, THE SAME KIND OF TRANSACTION

10:33:08 1 HAPPENED WITH DR. BROCK. THERE WAS A BILL OF SALE.

10:33:32 2 EXCUSE ME. I WANT TO GET IT STRAIGHT.

10:33:34 3 NOW, DR. BROCK WENT TO SAM FUNG FOR THE

10:33:37 4 SAME REASON THE OTHER TWO FAMILIES WENT TO SAMUEL

10:33:41 5 FUNG BECAUSE DR. BROCK AND DR. HANEY WERE SCARED.

10:33:45 6 AND WHY WERE THEY SCARED OF THE I.R.S.?

10:33:47 7 THE EVIDENCE WILL SHOW THAT THEY DIDN'T JUST HAVE A

10:33:49 8 TAX FRAUD. THEY HAD THE SAME TYPE OF TAX FRAUD

10:33:55 9 THAT WE HAD SEEN BLT, BEFORE LIGHTER'S TIME.

10:33:59 10 IN FACT, THE EVIDENCE WILL SHOW THAT THE

10:34:01 11 BROCKS EVENTUALLY HAD TO SETTLE UP WITH THE I.R.S.

10:34:05 12 AND HAD TO PAY \$300,000 IN BACK TAXES. AGAIN, THE

10:34:11 13 \$300,000 IN BACK TAXES WAS FOR CRIMINAL -- OR FOR

10:34:16 14 FALSE TAX RETURNS THAT THEY HAD FILED BEFORE THEY

10:34:19 15 EVER MET MR. LIGHTER.

10:34:23 16 AND JUST AS AN EXAMPLE OF THE FALSE TAX

10:34:26 17 RETURN FILING THAT THE BROCK FAMILY HAD MADE BEFORE

10:34:33 18 THEY HAD MET MR. LIGHTER WAS THAT IN 1999 IN A FORM

10:34:37 19 1040 TAX RETURN FOR ONE OF THE SORT OF B & B

10:34:42 20 TRUSTS, WHICH I BELIEVE WAS THE FAMILY TRUST FOR

10:34:47 21 DR. BROCK AND DR. HANEY, THERE WAS AN ENTRY FOR A

10:34:52 22 CHARITABLE DEDUCTION FOR THAT YEAR FOR \$603,800.

10:34:58 23 THE EVIDENCE WILL SHOW THAT DR. BROCK AND

10:35:02 24 DR. HANEY DID NOT MAKE A CHARITABLE DEDUCTION --

10:35:07 25 EXCUSE ME -- A CHARITABLE CONTRIBUTION OF \$603,800

10:35:12 1 OR ANYTHING EVEN CLOSE TO IT.

10:35:17 2 THAT WAS PART OF THEIR TAX FRAUD, WHICH

10:35:20 3 HAPPENED BLT, BEFORE MR. LIGHTER'S TIME.

10:35:23 4 MR. LIGHTER DIDN'T EVEN KNOW THEM AT THE TIME.

10:35:38 5 THERE WAS ANOTHER CONTRACT BETWEEN THE

10:35:40 6 BROCK FAMILY AND THE LIGHTER COMPANIES.

10:35:45 7 AGAIN, AND THE BROCK FAMILY SOLD A LOT OF

10:35:47 8 ASSETS TO MR. LIGHTER'S COMPANY, BUT, AGAIN, THE

10:35:54 9 BROCK ASSETS, THEY GOT A \$2.8 MILLION PROMISSORY

10:36:06 10 NOTE.

10:36:08 11 AGAIN, THIS IS NOT A SITUATION -- AGAIN,

10:36:10 12 THIS IS NOT A SITUATION IN WHICH MR. LIGHTER SIMPLY

10:36:12 13 WOULD SAY, WELL, WHY DON'T YOU GIVE ME ALL OF YOUR

10:36:15 14 MONEY AND TOGETHER WE CAN HIDE IT FROM THE I.R.S.

10:36:18 15 THIS IS A CONTRACT, A BUSINESS DEAL

10:36:20 16 BECAUSE ALONG WITH THE \$2.8 MILLION OF

10:36:25 17 CONSIDERATION, THE BROCKS ALSO GOT THE VARIOUS

10:36:35 18 ENTITIES THAT THEY CONTROLLED WHICH HAD FILED THE

10:36:38 19 FALSE TAX RETURN. MR. LIGHTER'S COMPANY WOULD

10:36:46 20 ASSUME THE TAX LIABILITIES.

10:36:47 21 SO AGAIN, A LEGITIMATE CONTRACT IN WHICH

10:36:58 22 CONSIDERATION WAS GIVEN AND THEN INCLUDING FOR THE

10:37:00 23 BROCKS, I'M SURE, THE VERY VALUABLE CONSIDERATION

10:37:03 24 THAT THEIR I.R.S. CIVIL PROBLEM WOULD NOW BE

10:37:07 25 SOMEBODY ELSE'S PROBLEM.

10:37:17 1 NOW, SORRY TO TAKE UP YOUR TIME BUT LET
 10:37:19 2 ME FINISH BY SAYING THAT A GOOD PART OF THIS CASE
 10:37:22 3 DOES INVOLVE THE THIRD CONSPIRACY THAT MS. WONG HAD
 10:37:27 4 SPOKEN ABOUT IN HER OPENING STATEMENT: THE TAPE
 10:37:41 5 RECORDING CONVERSATIONS BETWEEN SAM FUNG AND
 10:37:45 6 DR. GOOTNICK.

10:37:45 7 AND THE GOVERNMENT WILL PRESENT EVIDENCE
 10:37:48 8 THAT THE PHONE RECORDS WILL SHOW THAT IN BETWEEN
 10:37:54 9 THE TELEPHONE CALLS BETWEEN SAM FUNG AND
 10:37:57 10 DR. GOOTNICK, THERE WERE TELEPHONE CALLS MADE FROM
 10:38:00 11 SAM FUNG TO MR. LIGHTER. AND THERE'S NO DISPUTE
 10:38:04 12 OVER THAT.

10:38:09 13 BUT THE EVIDENCE WILL SHOW AND THE
 10:38:11 14 TRANSCRIPT AND THE AUDIOTAPE WILL SHOW THAT
 10:38:13 15 MR. FUNG WAS DOING THIS BECAUSE HE WAS WORRIED
 10:38:17 16 ABOUT HIS CRIMINAL EXPOSURE.

10:38:20 17 AT THAT TIME SAM FUNG WAS THE ONLY PERSON
 10:38:25 18 INDICTED CRIMINALLY. AND THAT'S THE OTHER PART OF
 10:38:27 19 THIS CASE. THE EVIDENCE WILL SHOW THAT NO CRIMINAL
 10:38:36 20 CHARGES HAD EVER BEEN BROUGHT AGAINST DR. BROCK,
 10:38:41 21 PROFESSOR BOURDIER OR DR. GOOTNICK.

10:38:46 22 BUT SAM FUNG WAS SCARED, AND HE WAS
 10:38:50 23 TRYING TO BROKER THINGS BETWEEN -- HE WAS TRYING TO
 10:38:54 24 BROKER A SETTLEMENT OF THE CIVIL CASES THAT ARE
 10:38:57 25 GOING ON BETWEEN DR. GOOTNICK AND MR. LIGHTER.

10:39:02 1 BUT THERE IS NO EVIDENCE THAT IN THE TAPE

10:39:09 2 RECORDING THAT WILL SHOW THAT MR. LIGHTER APPROVED

10:39:11 3 OF WHAT MR. FUNG WAS SAYING TO DR. GOOTNICK.

10:39:15 4 IN FACT, THE EVIDENCE WILL SHOW THAT

10:39:23 5 DR. GOOTNICK, WHO WAS WORKING WITH THE GOVERNMENT

10:39:26 6 BY THAT TIME TO RECORD THIS TELEPHONE CALL, THE

10:39:29 7 EVIDENCE WILL SHOW THAT DR. GOOTNICK ON MANY

10:39:31 8 OCCASIONS -- BECAUSE THE TELEPHONE CALL, EACH OF

10:39:35 9 THE TELEPHONE CALLS WENT ON FOREVER, OKAY.

10:39:37 10 BUT IN THE COURSE OF THOSE TELEPHONE

10:39:40 11 CALLS, EVER SINCE THE FIRST ONE, DR. GOOTNICK WAS

10:39:45 12 TRYING TO GET SAM FUNG TO ADMIT THAT SAM FUNG WAS

10:39:50 13 PUTTING FORTH ALL OF THESE THINGS AT MR. LIGHTER'S

10:39:54 14 REQUEST FOR DIRECTION OR INSTRUCTION. AND

10:39:58 15 MR. LIGHTER WAS GIVING MARGINAL.

10:40:01 16 BUT THE EVIDENCE IS TO THE CONTRARY. YOU

10:40:06 17 WILL HEAR THE AUDIOTAPE. YOU WILL SEE THE

10:40:09 18 TRANSCRIPT.

10:40:09 19 LET ME JUST HIGHLIGHT TWO PARTICULAR

10:40:12 20 PASSAGES FOR YOU.

10:40:14 21 I DON'T KNOW IF THIS TRACKS TO WHAT YOU

10:40:19 22 CAN SEE ON THE SCREEN, BUT AT LEAST IN TERMS OF THE

10:40:23 23 WRITTEN OR THE TYPED WRITTEN TRANSCRIPT ON PAGE 25,

10:40:26 24 THERE'S A PASSAGE WHERE DR. GOOTNICK SAYS,

10:40:32 25 "GOOTNICK: WELL, YEAH, BUT YOU'RE CALLING ME ON --

10:40:37 1 YOU'RE CALLING ME ON HIS BEHALF."

10:40:38 2 MEANING MR. LIGHTER.

10:40:40 3 "FUNG: NO, NO, NO, I FIND OUT

10:40:44 4 INFORMATION."

10:40:46 5 AGAIN, DURING THE COURSE OF THIS

10:40:48 6 INFORMATION, MR. FUNG ADMITTED TO A LOT OF -- HE

10:40:51 7 MADE ADMISSIONS ALL OVER THE PLACE ABOUT HIS

10:40:54 8 CULPABILITY AND WHAT HE WAS SCARED OF.

10:40:55 9 MR. FUNG DID NOT HOLD ANYTHING BACK, BUT

10:40:58 10 WHEN DR. GOOTNICK TRIED TO TRAP SAM FUNG INTO

10:41:02 11 SAYING THAT, WELL, LIGHTER PUT YOU UP TO THIS.

10:41:05 12 FUNG SAID NO, NO, NO, NO, LIGHTER DID NOT

10:41:10 13 DO THIS.

10:41:16 14 ON PAGE 11:

10:41:18 15 "GOOTNICK: SO, IN OTHER WORDS, SO

10:41:19 16 LIGHTER TOLD YOU TO GET IN TOUCH WITH ME --

10:41:23 17 "FUNG: NO, NO, NO.

10:41:25 18 "GOOTNICK: BECAUSE HE CAN'T --

10:41:27 19 "FUNG: NO.

10:41:27 20 "GOOTNICK: -- BECAUSE HE CAN'T CALL ME.

10:41:29 21 "FUNG: NO. NO.

10:41:29 22 "GOOTNICK: HE CAN'T CALL ME.

10:41:37 23 "FUNG: LIGHTER -- LIGHTER DID NOT ASK ME

10:41:41 24 TO GET IN TOUCH WITH YOU."

10:41:42 25 NOW, REMEMBER, SAM FUNG DID NOT KNOW THAT

10:41:45 1 DR. GOOTNICK WAS RECORDING THAT CALL, AND YOU WILL
 10:41:50 2 HEAR AND SEE THAT THROUGHOUT THE COURSE OF THE
 10:41:54 3 CONVERSATION SAM FUNG WAS NOT HOLDING ANYTHING
 10:41:57 4 BACK. HE WAS ADMITTING TO THINGS THAT --
 10:42:02 5 MS. WONG: OBJECTION, ARGUMENT.
 10:42:04 6 THE COURT: MR. FUNG, THIS IS OPENING
 10:42:06 7 STATEMENT TO BE DISTINGUISHED FROM CLOSING
 10:42:08 8 ARGUMENT.
 10:42:08 9 SO THIS IS, AGAIN, YOUR OPPORTUNITY TO
 10:42:11 10 PRESENT WHAT YOU BELIEVE THE EVIDENCE SHOULD BE AS
 10:42:13 11 OPPOSED TO ARGUING THE CASE.
 10:42:15 12 SO THIS IS, LADIES AND GENTLEMEN, I THINK
 10:42:17 13 YOU TOLD YOU EARLIER, BOTH SIDES OPENING STATEMENTS
 10:42:20 14 IS JUST THAT, IT'S A ROADMAP OF WHAT THEY BELIEVE
 10:42:22 15 THE EVIDENCE WILL BE. IT'S NOT EVIDENCE AND
 10:42:25 16 NEITHER OF THE OPENING STATEMENTS ARE EVIDENCE.
 10:42:27 17 THANK YOU, MR. FONG.
 10:42:28 18 MR. FONG: SO -- BUT YOU WILL HEAR FOR
 10:42:31 19 YOURSELF AND SEE THE TRANSCRIPT IN WHICH MR. FUNG
 10:42:37 20 ADMITTED TO A LOT OF THINGS BUT WHEN HE WAS ASKED
 10:42:44 21 REPEATEDLY BY DR. GOOTNICK, HEY, DID LIGHTER PUT
 10:42:49 22 YOU UP TO THIS? FUNG TRUTHFULLY SAID NO.
 10:42:53 23 LADIES AND GENTLEMEN, AT THE END OF THE
 10:42:55 24 EVIDENCE IN THIS CASE, I'M CONVINCED THAT YOU WILL
 10:43:00 25 RETURN A VERDICT OF NOT GUILTY. AND I THANK YOU

10:43:02 1 FOR YOUR PATIENCE .

2 (WHEREUPON, THE PARTIAL TRANSCRIPT WAS
3 CONCLUDED.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4 CERTIFICATE OF REPORTER
5
6
7

8 I, THE UNDERSIGNED OFFICIAL COURT
9 REPORTER OF THE UNITED STATES DISTRICT COURT FOR
10 THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
11 FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
12 CERTIFY:

13 THAT THE FOREGOING TRANSCRIPT,
14 CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
15 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
16 SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
17 HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
18 TRANSCRIPTION TO THE BEST OF MY ABILITY.

19
20
21
22 /S/
23
24
25

IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

DATED: DECEMBER 9, 2011